IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETTITION NO. 2375 /2002

PETITIONER — Lakhanlal, son of Shri Sukalu das, aged about 40 years, post-Acting Sarpanch, Gram Panchayat Agrikala, Tah. and District-Kawardha (CG)

V E R S U S

RESPONDENTS

1) State of Chhatisgarh, through : The Secretary, Department of Panchayat Mantralaya, D.K,S, Bhawan, Raipur (Chhattisgarh).

2) Chief Executive Officer, Gram Panchayat Dudhiya, Tah. Kawardha, Distt. Kawardha, C.G.

3) District Collector, Distt. Kawardha. Chhatitsgarh.

4) Returning Officer, Janpad Panchayat, Kawardha, Distt. Kawardha, Chhattisgarh.

P.R. No. 2473/02 Presented by Shri Kaushal Kumar Tiwari dated 7/11/02

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(32)

आदेश पत्रक

W.P. No. 2375/02

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DB: Hon'ble Justice K. H. N. Kuranga, C.J.
& Hon'ble Justice L. C. Bhadoo, J.
15/10/2003

Petitioner by Smt. Renu Kocher, Advocate.

Respondents No. 1 and 3 by Shri Sunil Sinha, Additional Advocate General.

By this writ petition under Articles 226/227 of the Constitution of India the petitioner has challenged the constitutional validity and the vires of Section 36 (1)(m) of the Chhattisgarh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (for short 'the Adhiniyam) which lays down that no person shall be eligible to be an office-bearer of the Panchayat who has more than two living children one of whom is born on or after 26th day of January, 2001. The challenge to the above clause does not survive in view of the law laid down by the Hon'ble Apex Court in the case of **Javed and others Vs. State of Haryana and others reported in 2003 AIR SCW 3892** and also in view of the order passed by this Court in the case of **Yashwant Kumar Sahu Vs. State of Chhattisgarh and another passed in Writ Petition No. 463 of 2002** dated 12th September, 2003.

[पीछे देखिये

XI-HC-22

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The petitioner has also challenged the show cause notice dt. 18/21-10-2002 issued by the Collector, Kawardha.

In view of the above there is no force in the petition of the petitioner, the same is liable to be dismissed and it is dismissed. However, the petitioner shall be at liberty to file appeal before the Director of Panchayat on the factual aspects. The petitioner will be entitled to the benefit of the limitation for the time spent by him in litigating before this Court in this writ proceeding.

The parties are entitled for certified copy of this order.

Sd/-
Chief Justice

Sd/-
L.C. Bhado
Judge